



## ARIZONA BOARD OF APPRAISAL

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### MINUTES REGULAR BOARD MEETING Friday, November 19, 2010, 9:01 AM

#### **INTRODUCTION OF APPRAISAL SUBCOMMITTEE POLICY ADVISORS**

Les Abrams introduced Kristi Klamet and Neal Fenocetti who have spent the past two days conducting the regularly scheduled audit of the Board of Appraisal offices and were completing the audit with Board attendance and review. They would later recap the results of the audit in a presentation to the Board.

#### **CALL TO ORDER AND ROLL CALL**

Regular Board meeting called to order by Les Abrams, Chairman.  
Board members Present at Roll Call:

Les Abrams  
Debbie Rudd  
Cynthia Henry  
Myra Jefferson  
James Heaslet  
Michael Marquess  
Michael Petrus  
Mike Trueba  
Kevin Yeanoplos

Staff Attendance:

Dan Pietropaulo – Executive Director  
Jeanne Galvin – Assistant AG  
Rebecca Loar - Staff  
Amanda Benally - Staff

#### **PLEDGE ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA**

#### **APPROVAL OF MINUTES**

Debbie Rudd made a motion to approve the October minutes. The motion was seconded by Myra Jefferson and passed unanimously.

#### **CALL TO THE PUBLIC**

Roy Morris addressed the Board at the Call to the Public. Mr. Morris stated he has received numerous calls from appraisers who had received calls from financial institutions requesting copies of appraisals completed previously for another lender and

the lender, (not the appraiser's client) was now requesting a copy. Mr. Morris then passed out copies of items and asked that the Board publish these items to the regulated community so that they are alerted that they can not communicate assignment results without their clients express permission.

Michael Marquess asked counsel if this was something the Board could direct staff to do and she replied affirmatively. Les Abrams then so directed. Debbie Rudd asked Mr. Morris that since he was a USPAP instructor did he not go over this in his classes to which he replied affirmatively. Mr. Morris then stated that in addition to class he is receiving numerous questions from the regulated community outside of the classroom forum. Mr. Morris related that institutions were telling appraisers that "they had an incomplete copy and would ask for a complete copy" or would state that "they had the report reviewed and didn't have the complete appraisal please send us a copy", or "please send us a copy so we can get our records straight as the client is no longer in business". They are trying to induce appraisers to violate the privacy law.

Jeanne Galvin informed the Board that in addition to adding this to the FAQ's the staff could also be directed to send out a news bulletin so the information could be relayed to the appraisal community immediately. Dan Pietropaulo then told the Board that this is a result of many emails and calls also received by the Board that were referred to the USPAP experts. His concern was that there were many appraisers not sure if they should send out a copy since the loans were bought by others. Mr. Morris believes that the lenders were trying to induce the appraiser to send them a copy which could affirm an obligation from the appraiser to an unnamed intended user which could reaffirm an appraisers' liability for appraisals that go back to 2006 and 2007. He believes there is a legal issue in terms of what the lenders are trying to induce the appraisers to do which ultimately could increase the appraiser's liability.

Les Abrams then directed the information to be clearly stated and distributed.

## **COMPLAINT REVIEW**

### **3157 Kenneth L. Truempler - present**

Debbie Rudd read the complaint summary. Complaint is regarding a single family residence which was appraised in 2010 located in Phoenix. Complaint alleges multiple errors including gross livable area resulting in lower value. Respondent replied comps used were most relevant to the appraisal assignment and value is well supported.

Debbie Rudd only noticed a missed storage room in the Cost Approach. Seller agent was incorrect regarding not needing a permit for the addition. Michael Marquess and Mike Petrus found no significant issues. Motion to dismiss was made by James Heaslet and was seconded by Michael Marquess and carried unanimously.

### **2826 Gary A. Carter**

Les Abrams stated that Mr. Carter has notified the Board office that he would be unable to attend due to illness. Les Abrams asked the Board if they would like to go ahead with this file or continue to another meeting. Debbie Rudd stated that this file has been in process for some time and Rebecca Loar responded that Mr. Carter had only stated that he would not be in attendance but did not ask for it to be continued. James Heaslet

stated that due to some of the things he had seen in the report that he would like to talk with him and made a motion to continue until December. The motion was seconded by Debbie Rudd and carried unanimously.

**3167 Ginger D. Francione - present**

Les Abrams read the summary. Property is located in Sierra Vista. Complaint alleges that because it took so long for the appraiser to complete and because it was filled with errors the complainant was unable to refinance the home. Respondent replied that items that were errors were corrected but that some items were simply a matter of practice and not errors.

Debbie Rudd had questions about comp 1 being a lease option. Respondent said that conversation with the agent revealed that there were tenants in the property who may have had an option to buy but that were being destructive to the property. Respondent did not believe there was an option to buy and that the agent did not know. Debbie Rudd asked how did Respondent calculate market trends. Respondent stated with multiple listing data. Michael Marquess asked why the market trends data changed between the two appraisals. Respondent stated that it was a typo that was changed. Additional questions were asked about market conditions and small errors of physical reporting. Debbie Rudd was concerned that there may have been pressure from the owner and that the value had been increased by \$15,000 from the original report to the second and corrected report.

Michael Marquess made a motion to offer a Level I Letter of Remedial Action stating violations of 1-1c, 1-4b, and 2-1 with 7 hours of report writing, 6 months, no CE credit. Motion was seconded by Michael Petrus and carried unanimously.

**2953 James M. Moore - Informal Hearing**

Jeanne Galvin stated she has been in communication with Mr. Moore whose license expired at the end of October and he does not plan to renew. Her recommendation was to close the matter without prejudice and vacate the Formal Hearing. In the event he does re-apply the matter could be re-opened. Debbie Rudd so moved and seconded by Myra Jefferson. The motion was carried unanimously.

**3162 James J. Camp - present**

Debbie Rudd recused herself and James Heaslet read the summary. Complaint alleges that due to incompetence of appraiser the property was undervalued and excessive fees were charged. Respondent replied that he was competent and has appraised in that area for 25+ years and that the property was appropriately appraised in the report to the lender. Michael Marquess questioned the estimation of effective age and why there were not listing to sales price adjustments. Respondent replied that the effective age was based on the subject's condition and that did not feel that the property had been listed too high and did not make an adjustment.

Motion was made by Michael Marquess to dismiss which was seconded by Michael Petrus and carried unanimously with one recusal. There had been a second appraisal submitted by the complainant which was included to show the differences between that appraisal and the one completed by Mr. Camp. James Heaslet then made a motion to

open a complaint against Raul Kimura #20550 which was seconded by Michael Petrus. Motion was carried unanimously with Debbie Rudd being recused. Jeanne Galvin asked for basis of complaint against Mr. Kimura. Michael Marquess felt that there was intentional misleading information to the intended user on the condition of the property referring to all of the damage to the home, including water damage, as cosmetic.

### **3129 Daren L. Rogers - present    Informal Hearing**

The Board and Daren Rogers introduced themselves.

Les Abrams read the summary and Mr. Rogers waived his right to reading of the record of informal hearing into the record and signed the waiver.

Mr. Rogers said he realized there were some errors in the report and was here to take responsibility for them.

Debbie Rudd has questions regarding the subdivision being gated, questions regarding the market supply and demand, and whether the comparables were of similar quality to the subject home and if there should have been quality adjustments on this custom home. Respondent replied that condition adjustments should have been made. Respondent also replied that the 1004MC form had incorrect sample sizes and made market condition decisions based on other data that was more representative of the subject. Debbie Rudd wanted to publically commend Respondent on being able to notice and analyze that issue with the 1004MC form in this instance.

Michael Petrus asked why owner's comps were not considered. Respondent replied that they were considered but that they reflected \$145,000 difference in sales prices and that they both had superior views of Pinnacle Peak that the subject did not have. Respondent therefore concluded that they were not comparable. Mr. Petrus stated that they were in the subject's subdivision, however, and asked again why they were not used. Respondent again stated that he felt the prices paid were much higher due to the unobstructed mountain views which the subject did not have.

Debbie Rudd asked questions about Respondent's ability to network with other appraisers for ongoing peer review and Respondent acknowledged it was limited but would be resolved. Respondent then listed all of the classes taken since last renewal. Debbie Rudd asked if Respondent had sought additional assistance from a more experienced appraiser and Respondent stated he had but that he felt he would not take more assignments without more training and education regarding custom homes.

Les Abrams asked if Respondent had a final statement at which time Respondent stated he had none.

Debbie Rudd found violations of 1-1a, 1-1c, 1-2ei, 1-4a, and 2-1b and made a motion for the Board to offer a Level II Non Disciplinary Letter of Remedial Action with a requirement of 7 hours complex properties, 7 hours of sales comparison with no CE credit and 7 hours 2010-2011 USPAP with CE credit 6 months to complete. Motion was seconded by Myra Jefferson and carried unanimously. Michael Marquess recommended that classes be taken in person rather than taken on line.

### **3135 Carolyn Moore - present Informal Hearing**

Les Abrams read the summary. Board members introduced themselves.

Carolyn Moore then made an opening statement. She stated that she had used a template and made some mistakes regarding physical description as a result. She made a rebuttal back to the lender and that is where it stands now. She agreed to accept punishment for her errors.

Michael Marquess asked about the comment "another criteria was to choose properties that were not foreclosures or short sales if at all possible since the assignment was a refinance". He then asked if she was doing different appraisals depending on if it was a refinance, sale, or other and would she explain what was meant by that statement.

Carolyn Moore stated that she meant she was looking for sales that were arm's length, knowledgeable buyer to knowledgeable buyer and did not represent a foreclosure or short sale since the subject was not a foreclosure.

Michael Marquess then stated that none of the closed sales bracketed the opinion of value and would she explain that.

Carolyn Moore then stated the closed sales didn't bracket it but all of the closed sales used in the report bracketed the final estimate of market value and she no longer does that.

Mr. Marquess then asked how she selected her listings since all of the listings were \$100,000 to \$125,000 higher than the sales.

Ms. Moore replied that hindsight was always better and that looking at them now they are not the best comparables and that she was looking for sales similar in lot and square footage size and were not trustee sales.

Mr. Marquess wondered what was different about them since they were much higher than the subject.

She replied that they were far superior to the subject.

Debbie Rudd asked about comp 3 which did not go through the MLS and who did she confirm that sale with.

Ms. Moore replied she used Fast Web and National Data Collective which were public records and referred to previous listings but could not find the listing at the moment.

Michael Petrus told her there was an expired listing in her work file.

Les Abrams asked her if she had been re-instated by Chase and she replied negatively.

Debbie Rudd asked if she was working by herself or with someone else. She replied she was working for Josephs Appraisal Group and was in the office about half of the

time and out of the office the rest of the time. She also bounces things off of others in the office.

Les Abrams offered her the opportunity to make a final statement and she declined.

Debbie Rudd stated that none of the closed sales supported the estimated market value, site value was not supported by the land comps reported on page three, all were much lower than her estimate of value. There was no external obsolescence taken for economic conditions for the market not returning the cost of construction and there was a wide range of comparables used which were not credible. Ms. Rudd then questioned the competency issues leading her to believe the violation was between a Level II and a Level III.

Michael Marquess questioned the statement about this being a refinance and why it would make a difference.

James Heaslet said he felt it should be a Level III.

Debbie Rudd made a motion that the discipline offered be a Level III Consent Agreement with with 6 months probation with a mentor, 7 hours cost approach, 15 hours basic appraisal with exam and no CE. 6 months to complete education and a requirement of 12 reports to be reviewed. She would have the opportunity to terminate early if requirements were met and reports were satisfactory.

The USPAP violations were a Level III, Competency, 1-1a, 1-4a, 1-4b i, 1-4b iii 2-1a, 2-2b viii.

Motion was seconded by Michael Marquess and was carried unanimously.

### **3025/26/27 Vincent L. Echols - present Informal Hearing**

Board members introduced themselves.

Les Abrams offered him the opportunity to make an opening statement.

Mr. Echols stated that the complaints were the result of "HUD being HUD". HUD required him to take education to get back on the list and that he had complied. He stated that it was extremely difficult to find HUD appraisal policy.

He spoke with reference to complaint #3125 and the non-permitted addition. He said there are three ways to deal with it. One is to give it no value, two is to give it value, and three is to give it some value. The subject had an addition and he gave it no value.

He discussed why the square footage in the report and the sketch did not match. He used the public records as opposed to his field notes and sketch drawing.

Mr. Echols pointed out that the complaint stated that the utilities were not on at the time of inspection. He said he took photos of the water running in the sink. One appraisal did not have the statement that the utilities were on and functioning. He stated that it was not in the report but it was in the work file and that HUD was trying to get appraisers to do narrative reports but that this was a summary report.

Complaint stated that comp sales had for sale signs in the yard and stated he uses his own photos and that they were not MLS photos.

Moving to complaint #3026 Mr. Echols read that the complaint again states that the URAR and the sketch do not reflect the same square footage. He states he already addressed that issue and that the complaint also states that home was vacant and there was no sign that the utilities were on. Mr. Echols repeated that he had already explained that. The complaint stated that comparable 3 had no time adjustment and that the adjustments for condition were not consistent without any explanation. Mr. Echols explained that there were comments but the software glitch had cut off the comments. He agreed that there were no time adjustments as he had used regression analysis. He said he was still learning how to use the 1004MC form at that time which would have indicated a time adjustment and now uses that form. On this report he used regression analysis which he felt did not require time adjustments.

The complaint alleged that there were no listing to sales price adjustments for the listing comparables and that the 1004MC does reflect one but, again, he was still learning how to use that form at that time and now uses it always. He has sales in file that were listed and sold for more, the same, and for less than asking price therefore he did not make an adjustment.

Complainant #3127 has the same issues with the difference in square footage between the URAR and the sketch, the lack of utilities, and again the for sale signs in the comp photos. This report also reflects no time adjustment for sale 3. He felt that it did not mislead the reader and did not see evidence at that time to support an adjustment.

Complaint also says he did not explain external obsolescence due to the economic condition as the subject "did back to an open wash". He found no sales to support that and was always taught that if you could not support it do not adjust.

Complaint stated that comps 2 and 3 were in gated communities and it was not disclosed nor was an adjustment made. He felt that gated communities and open washes had similar value and that there was limited data. He did not know how he could make a statement on everything in a summary report without it being "this thick". It was not a narrative report and that the data was in the work file.

Complaint that subject previous sale history was not analyzed and Respondent said that's not true. Sale 3 is analyzed and it was a transfer deed.

Debbie Rudd then asked him to explain a "transfer deed" as she was not familiar with that term. He stated that there was no new mortgage on the property and so it was not an arm's length transaction. It was also supported by NetValueCentral. It did change ownership but there was no new mortgage. He then stated that it's done by IMAPP and they put a "TD" on there.

Debbie Rudd interjected that she didn't think that is what "TD" means. She said it means "trustee deed" which means it is a foreclosure and not a sale and that the analysis of that is that they would be looking for discussion of it being a foreclosure. Mr. Echols then admitted that he did not know that and made a mistake.

Mr. Echols then stated that he didn't think any of us would have become appraisers if they knew they would be in front of the Board like this. He didn't think he did anything that was hurting the public and that is what the Board is supposed to do. He didn't know how this was hurting the public.

Debbie Rudd asked how long he had been appraising and he stated 12 years. He replied that he was working with someone else and bought him out. He stated that he had his own company with appraisers, no trainees, and at one time had 18 appraisers working with him and now there were two.

Debbie Rudd asked if he had Appendix D and he replied yes. She then asked if he refers to that document for FHA jobs and he stated he did not. Ms. Rudd recognized his frustration in finding out HUD requirements and ask him if he went on HUD.gov and he stated yes but only about once every two months. Ms. Rudd suggested that the for sale sign issue is a HUD requirement and he said it wasn't in his last Institute class at which time she recommended he go to HUD to get the answers.

Debbie Rudd then asked him what he would like to see for a resolution of this matter. She asked him to read Scope of Work Acceptability which he read. She then stated that when he agreed to take that assignment he agreed to complete the assignment by HUD's rules and that he knew HUD had the rules but couldn't find them. He restated that it was a summary report and Ms. Rudd reminded him that he had agreed to complete the assignment by HUD's rules and did not.

She asked again what he thought was fair. He felt a letter of concern was fair but said he would have not gotten into this profession if he knew he would be sitting in front of the Board today for this.

Michael Petrus said he had some questions that were not HUD related. Mr. Petrus had concerns that came up at the original hearing when Mr. Echols was not present. Mr. Petrus asked was that typical that he measured properties but still used county records. Echols said no unless it was close otherwise he used his own measurements.

Mr. Petrus asked if he found a significant difference did he go to the county to see what the difference is or did he assume his was incorrect. Mr. Echols said no, he didn't assume his was incorrect. Mr. Petrus referred to #3025 and said that he had the addition on the sketch but did not have it on the URAR because it was not permitted and Mr. Echols agreed. Mr. Petrus then informed him that he (Mr. Petrus) checked the internet and found that the addition was permitted but that Mr. Echols did not. Mr. Petrus then asked him that if it were not permitted did that mean it had no value to a typical buyer. Echols then stated that if it were permitted it would have value. Mr. Echols stated he had record of a permit for a carport and Mr. Petrus stated the permit he found was for a family room addition.

Debbie Rudd said that HUD may not allow you to use an unpermitted addition in the main living area but that they would allow you to include it, likely at a lesser value, in the estimate of value (contributory value). She said that she had spoken with a City of Phoenix building inspector who agreed there was no grandfathering but that unless it was of very poor quality they would not make you tear it down and that it would only apply if you went for a permit for something else and they came across it that way. Even in that event they would most likely require you to bring it up to code and fine several



hundred dollars. Ms. Rudd went on to say that Mr. Echols had stated that the subject addition was of workmanlike manner and that it being in an area where additions were common and that she would likely have given this addition some value. Michael Petrus said that he didn't think that it was necessarily a question of HUD not assigning it value but rather does the market assign it value and that HUD will only tell you to maybe break it out someplace.

Mr. Petrus had more questions about #3027. He stated his questions were mainly because Mr. Echols was not there for the initial file review. His question was that the subject backs to an open desert area and why was that not in the report. Echols said it was in the work file and that it was not noted to the reader. Petrus asked why there were no adjustments for difference in bathroom count or no explanation that there was not adjustment put in the report.

Michael Petrus felt that since there would typically be an adjustment for backing a wash and for bathroom differences there should have been some discussion regarding these attributes at which time Mr. Echols reiterated that he had support for every adjustment he made in the work file.

Dan Pietropaulo asked him about the appraisal with the addition and did he not include the addition based on information he obtained from the assessor records. The question was when you recognized this as an addition did you ask the owner, realtor or anyone if it was permitted and Mr. Echols said he did and always asks but in this case they said they did not know if it was permitted.

Les Abrams then said that protocol requires the Chair to then ask if Mr. Echols had a closing statement who reiterated that he had support for everything in the appraisal and that did not feel that he did not break any standards that were listed here. Mr. Abrams said it was time for Board deliberation.

Michael Petrus asked what the Board had originally offered Mr. Echols. Debbie Rudd stated it was a Level II with 7 hours sales comparison approach and 7 hours USPAP 2010-2011, USPAP would include CE but not the sale comparison approach class, 6 months to complete, 7 hours scope of work, and a letter of due diligence. Les Abrams then asked if there had been any additional evidence which would cause the Board to want to alter or stand by the original decision. Mr. Petrus had heard nothing making him want to decrease it but that the letter could have been stated differently as he was at a loss regarding the for sale signs but that since it was a HUD scope of work issue he was fine with it. Debbie Rudd found no reason to change the original decision.

Mr. Petrus said that the letter stated the utilities were not on but that Mr. Echols had shown that they were. Debbie Rudd was concerned that the homes had gas and the home was vacant and did he mean that the vacant home had the gas on? Mr. Echols agreed that it did not state that in the report but that information was in his work file that the gas was not on. Ms. Rudd and Mr. Petrus reminded him that it was not in the report and that the client would not have known about the work file. Ms. Rudd then stated she was not willing to change that from the original letter.

Les Abrams stated that a motion was made to keep the original letter intact which was seconded by James Heaslet. The motion was carried unanimously.

**3035 & 3036 Nathaniel A. Hastings/Jeffery L. Slater - present with attorney Jim Braselton Compliance File Review**

Discussion and possible action regarding Respondent's failure to sign letter of Due Diligence and proposed counter offer.

Debbie Rudd stated that the counter offer is to change the Due Diligence to a Letter of Remedial Action (Non Disciplinary). Ms Rudd stated that she didn't have a problem changing it to a Letter of Remedial Action as long as all else remained the same Level II. Debbie Rudd made the motion and James Heaslet seconded the motion. The attorney then stated that the proposal was to change it to a Level I. Debbie Rudd explained that she missed that part but was not willing to drop the violation to a Level I and that it would remain a Level II. Motion was carried.

**3153 Robin E. Pinkus - present**

Les Abrams stated that this had been tabled from October.

Debbie Rudd read the statement which alleges that multiple USPAP errors were found. Ms. Rudd stated that the photos did not line up with the photos supplied by the reviewer and that Comp 4 did not match up with the canceled listing she found from 7 months prior and made a motion that the file be sent to investigation. James Heaslet seconded the motion and carried unanimously.

**2968 Andrew E. Ament - present Investigative File Review.**

Michael Marquess moved to accept the investigators report and asked if there was any discussion. He felt that some of the comments regarding visiting the sales offices were more in line with best practices rather than USPAP. The motion to accept the investigators report, with the exception of the comment relating to verification at the sales office, was seconded by Debbie Rudd and carried unanimously.

Debbie Rudd read the violations as being 1-1a, b, 1-4a, b, 1-5a, b, 1-6a, 2-1a, 2-2b, all noted in the investigator's report. Her opinion is a Level II and recommends offering a consent agreement with 7 hours cost approach, 7 hours complex properties, 6 months to complete with no CE. Respondent was asked if he had the most recent USPAP class and stated he had completed it last week. Michael Marquess suggested a Letter of Remedial Action. Motion was made by Michael Marquess and seconded by Mike Trueba and carried unanimously.

**3172 Joseph F. Koch - present**

Les Abrams read the summary. Complaint alleges that the appraiser should not have taken the assignment as he apparently doesn't know the area very well. Respondent replied that the comps used in the report and those included in the work file demonstrate the appraisers competence and unbiased conclusions and opinions. Property is located in Rio Rico, Santa Cruz County.

James Heaslet stated he found no issues with the appraisal but that he was not familiar with Santa Cruz County. Debbie Rudd noticed that the cost approach was twice the value of the sales comparison approach and asked if the appraiser ever did anything for

external obsolescence for economic conditions. Respondent stated that he had heard of that but didn't consider any of that in the cost approach. Ms Rudd then asked about his procedure when he goes to Rio Rico to appraise. He then stated he goes to the real estate offices and uses Santa Cruz MLS. Michael Marquess asked about the location and view adjustments and that the complainant had some very dramatic views and some adjacencies next to gravel pits and asked if he felt there should be an adjustment made for subjects location next to a gravel pit. He stated he saw the gravel pit but then restated that he did not actually see the gravel pit but did see the duplexes. He felt there was not adjustment as his best comparable was the one two doors down and did not see the need for an adjustment.

Debbie Rudd made a motion for a Level I Letter of Concern citing 1-4b,iii for external depreciation for economic conditions. James Heaslet wanted to include a 7 hour class on cost approach and Jeanne Galvin pointed out that a Level I would not include class. It was then decided that it would be Level I Letter of Concern with a suggestion to take a cost approach class. Motion was seconded by James Heaslet and carried unanimously.

Les Abrams then called a lunch break and for the meeting to reconvene at 1 pm.

Les Abrams reconvened the meeting at 1:03 pm.

#### **Formal Hearing #11F-7891 Kevin J. Rodolico - not present**

Les Abrams read the summary which was the decision of the Administrative Law Judge after the formal hearing. All Board members attested that they have read the transcription of the hearing.

Jeanne Galvin then presented oral argument on behalf of the state and informed the Board that the ALJ concluded that the Board should uphold its decision denying Mr. Rodolico's application to become a state Certified Residential Appraiser. The state concurs with that recommendation and asks the Board to adopt it.

The motion was made to accept the Findings of Fact by James Heaslet and seconded by Myra Jefferson. The motion carried unanimously.

The motion was made to accept the Conclusions of Law by Michael Marquess, seconded by Mike Trueba and carried unanimously.

Motion was then made to accept the ALJ's order by Debbie Rudd, seconded by James Heaslet and carried unanimously.

The Board's decision was recorded with a roll call vote and accepted unanimously.

#### **3161 Brent K. Walden - present**

Debbie Rudd read the summary. Property is a single family property in Scottsdale.

Complaint alleges an unrealistically low valuation assigned by the appraiser for a mortgage refinance and lacks basis and objective fact and contradicted by available information such as the actual cost of construction of the property.

Respondent replies that the best comps available were used along with proper analysis of market research for the area.

Michael Marquess asked about the cost approach and did he feel that \$225/SF was realistic for a house such as the subject. Respondent replied it was based on other data he had from that area including Marshall and Swift's High Value.

Debbie Rudd said the appraisal states that the value was abstracted due to limited or non existent resale activity for vacant land and concluded a value for the site of \$450,000 and yet the site next door had sold in February for \$665,000, did you see that sale? Respondent replied he might have looked at that one but did not recall. Ms Rudd said that comp 3 backs to the golf course and that it was not noted in the report. Respondent agreed it did but felt that the views were similar to the subject hillside lot.

Debbie Rudd made a motion that the matter be referred to investigation which was seconded by James Heaslet. The motion was carried unanimously.

**3164 Luis F. Llanos - present**

Les Abrams read the summary for the staff.

Complaint alleges that the appraiser went out of the subject area and overpriced the property committing fraud and conspiracy with the mortgage broker, realtor, and builder. Respondent replied that the best comps were used and the subject had a similar value with other properties in the market area and that in no way did he commit fraud or conspire to commit fraud with any of the parties mentioned.

Debbie Rudd made a motion to send it out to investigation which was seconded by James Heaslet and carried unanimously.

**Scott A. Armstrong - not present**

Debbie Rudd stated that the complaint and reply were the same as the previous case 3164 as it is the same property and made a motion that this case too be referred to investigation. The motion was seconded by James Heaslet and carried unanimously.

**3151 Ken J. Rhoads - present**

Michael Marquess read the summary. Complaint alleges that report was inaccurate and misleading. Respondent replied that there were no inaccuracies with this report.

Debbie Rudd asked if complainant was present and staff told her that she had left. Ms Rudd then stated that the type of issues involved in this complaint are regarding inspecting of gutters, pest control, etc. which are not the responsibility of the appraiser other than noting evidence and that she did not see issues with this report. Mike Petrus agreed but had one appraisal question regarding the HOA fees of some of the comps which had high monthly fees and was that considered in the report. Appraiser was not sure as it had been a while since the report was completed.

James Heaslet made a motion to dismiss which was seconded by Mike Trueba and carried unanimously.

**2851 Thomas M. Oneill - present**

Les Abrams read the summary. Discussion and possible action concerning Respondents request to terminate probation and mentorship.

Debbie Rudd and Michael Marquess had concerns about conflicting market data, remaining economic life, geographic competency, and sales verification. James Heaslet made a motion to decline the request for termination of mentorship and probation and would like to see 3 more reports without mentorship but with continued probation, and provide the Standard 3 review on the Serpentine property appraisal in Flagstaff. The motion was seconded by Michael Petrus. Michael Marquess was not comfortable with termination of mentorship. Motion carried with two nays. Michael Marquess and Myra Jefferson voted nay.

**2867 Jeffrey M. Playford - present**

Les Abrams read the summary. Discussion and possible action regarding audit of appraisals and Respondent's request to terminate probation.

Debbie Rudd expressed concern regarding names not matching, cost numbers not credible, addendum information does not match the report, and time adjustments not consistent. Respondent felt that the AMC were reviewing the reports so their acceptance was sufficient. James Heaslet did not agree and expressed regret that a mentor had not been assigned earlier. Mr. Playford stated that he could not afford a mentor and just needed someone to look at the reports and tell him what to correct. Debbie Rudd stated that was a mentor.

Debbie Rudd made a motion to deny the termination request, add a mentor for 30 days, and 12 reports with audit. Kevin Yeanoplos asked the other Board members if there was any other recourse other than mentorship due to the costs and could he just pay someone to review the reports. Debbie Rudd restated that was what the mentor did, review the reports and give the appraiser guidance. The motion was seconded by James Heaslet and carried unanimously.

**2723/2745 Todd P. Barnhart**

Les Abrams read the summary. Discussion, consideration, and possible action concerning audit of appraisals and Respondent's request to terminate probation.

Michael Marquess made a motion to terminate the mentorship and probation which was seconded by Mike Trueba and carried unanimously.

**2868/2869 Lydia A. Mireles - not present**

Les Abrams read the summary. Discussion, consideration, and possible action concerning approval of mentor required in July 28, 2010 Consent Agreement.

Debbie Rudd made a motion to approve Mr. Andy Wachtel and Mr. Greg Hardy as mentors for Ms Mireles. Motion was seconded by James Heaslet and carried unanimously.

**2958 et al Danna M. Smith - not present**

Les Abrams read the summary. Discussion, consideration and possible action concerning approval of mentor pursuant to the September 1, 2010 Consent Agreement and Order of Discipline.

Debbie Rudd made a motion to approve Monica F. Kussmann as mentor for Ms Smith which was seconded by Myra Jefferson and carried unanimously.

**2937 Karen K. Looney - not present**

Les Abrams read the summary. Discussion, consideration and possible action concerning approval of mentor pursuant to the October 18, 2010 Consent Agreement and Order of Discipline.

Michael Marquess made a motion to accept Daniel Smith as her mentor which was seconded by Debbie Rudd and carried unanimously.

Les Abrams then called for a 5 minute break after which the meeting was reconvened at 2:14 pm.

**3096 Jane A. Ritzenthaler - not present**

Debbie Rudd read the summary. Complaint alleges that two appraisals were paid for but they only received one. Staff offered that the reports were subpoenaed and that they did receive it so board is ready to proceed. Debbie Rudd then stated that she did not find any violations on the appraisal. Michael Marquess made the comment that it may have been a bad business practice to bill the way they did but that it was not a USPAP violation. Mike Petrus felt that they should just call it her business decision and did not see anything wrong. James Heaslet then made a motion to dismiss which was seconded by Debbie Rudd. The motion was carried with Michael Marquess voting No.

**3120 Harrison Gordon**

Debbie Rudd stated that Mr. Gordon's license has expired and the 90 days were up and made a motion to close the file without prejudice. Motion was seconded by Michael Marquess and carried unanimously.

**3158 Ted E. Pearce - not present**

Les Abrams read the summary. Complaint alleges that the appraiser made multiple errors with regard to adjustments, failed to analyze the data that resulted in the outcome of the report. Respondent replied that the best comps were used and the estimate of value of the subject parcel is reasonable at time of appraisal.

Mike Petrus said he did not find anything major. Michael Marquess found the cost approach lacked any kind of economic obsolescence and thought there possibly should have been an adjustment for location adjacent to golf course in a second home marketplace. Debbie Rudd asked of those who do split log homes if there was typically an adjustment for the difference between log and typical frame and was there a

difference between a split log and a log home. Michael Marquess informed her that there was a difference and in some markets there may be an adjustment.

Michael Marquess then moved for a Level I Letter of Concern regarding the lack of economic obsolescence, 1-4biii which was seconded by James Heaslet. Motion was carried unanimously.

**3159 Richard M. Ligas - not present**

Les Abrams read the summary. Complaint alleges that the valuation of the property was too low, there were skewed adjustments for lack of pool and quality of amenities. Respondent replied adjustments were made utilizing proper market data and analysis of similar properties and best comps used.

James Heaslet could not see where he got his rental data from \$600 to \$2000 per month. Debbie Rudd had numerous questions regarding sales price change, re-inspection after sales price change, pool adjustments not supported, no adjustments for difference between list price and sales price, and report states market declining but there were no time adjustments. Debbie Rudd then made a motion to invite him in for an informal hearing which was seconded by James Heaslet and carried unanimously.

**3163 Jon W. Reeve - not present**

Les Abrams read the summary. Complaint alleges the appraiser failed to consider pertinent factors affecting the value of my property. Respondent replied that the complaint was driven by a perceived value issue by the homeowner and would have been best resolved by the lender's use of a reconsideration of value request.

Debbie Rudd questioned the disclosure that it was an exterior only inspection but that it was completed on a 1004 form. Mike Petrus said he based his design adjustment on the basis of R3 verses R4 for the subject. The assumption was that the appraiser was referring to the county records but was not sure. James Heaslet found no adjustments for sales outside of the gated community and questioned a \$25,000 for a pool adjustment. Michael Marquess questioned the sales used for comparison which were from a pool of data with great disparity of price.

James Heaslet made a motion to invite the appraiser in for an informal hearing which was seconded by Debbie Rudd. Motion was carried unanimously.

**3174 Scott A. Armstrong - present**

Les Abrams read the summary. Complaint alleges many errors which resulted in the value too low. Appraisers did not meet the adequate standards for horses/agricultural usage. Respondent replied that the appraisal was considered to be USPAP compliant, unbiased, and well supported.

Mike Petrus felt they should invite him in for informal hearing as there were several explanations he would like to hear, one being the comment about solar panels being personal property and having no value and made a motion. Motion was seconded by Myra Jefferson and carried unanimously. Debbie Rudd also stated that the report had

discussion about the property being a horse property but that there was no discussion of it backing to the freeway.

### **12 Month File Review:**

The Board then had the staff review the 12 month file review. Jeanne Galvin stated she has met with staff and have scheduled about 5 for formal hearing in upcoming months.

### **Ratification of AMCs by the Board:**

The next item was ratification by the Board which was completed on a consent agenda. The list was read into the records. All of these AMCs are currently on the approved AMC list posted on the Board website and are already authorized to do business in Arizona. Debbie Rudd made a motion to ratify all of the AMCs on the consent agenda. Motion was seconded by James Heaslet and carried unanimously.

### **Reports by Executive Director:**

Les Abrams then acknowledged the hard work done by the Board and Executive Director and stated that it was appreciated and reflected in feedback received from the regulated community. He then wished the Board members and staff a Happy Holiday season.

The Executive Director, Dan Pietropaulo presented the Directors reports.

Complaints with answer dates extended by staff = 1. Rebecca Loar stated that person had asked for extension due to health issues which was granted.

Complaint statistics = 6 waiting for formal hearing  
1 waiting for informal hearing  
26 pending other  
32 files needing investigation which represents fewer than 32 appraisers as some of the appraisers have multiple files  
26 are currently out with investigation  
14 new complaints

These statistics do not reflect decisions made by the Board at this meeting.

We have received some of the investigations back of files that were referred the Arizona Board by the Mortgage Fraud Task Force and we anticipate the remainder of those files to be completed soon. The intent is to schedule them to be presented to the Board as they come in as they were sent out in batches by individual appraiser. The Board will then have all files from a particular appraiser to review at the same time. Several will be ready for the December agenda.

The Executive Director asked the Board to allow posting of the minutes in DRAFT form as there is usually pertinent information that should be disseminated. They would be posted clearly as DRAFT and subject to revision after Board review. The Board then so directed.

The Board then discussed the use of and creation of the monthly agenda. Discussion included re-introducing the Draft Agenda. There was concern that they would receive a



large file item to review with only a couple of days till Board meeting. Rebecca Loar explained that she did not send out file items to review at the last minute but that last minute agenda changes only included issues that need to be discussed or someone who needed to speak to the Board.

Michael Marquess then asked for a Draft Agenda to be posted on the web and Dan Pietropaulo stated that they could and would do that. The Draft Agenda would be first sent to all Board members and the day after it would be posted on the website.

Dan Pietropaulo then told the Board that he had distributed the Referral of Suspicious Appraiser Activity Form, or Complaint Form, drafted by the FDIC, and asked them to go over it and think about it and that it would be placed on the January agenda for discussion and possible action regarding adopting this form either in whole or in part. He also handed out copies of the Voluntary Disciplinary Matrix form drafted by the Appraisal Foundation as it would also be on the January agenda for discussion and possible action regarding adopting it for Board use.

Dan Pietropaulo told them he was looking at several issues including eLicense and online credit card payment. eLicensing may happen but it is still a distant future. Credit Card payment on our website is much closer and more feasible. There are meetings scheduled to work through this process and he would report on this at a future date. There was much discussion about the credit card fees and who would pay them and how they would be charged. Dan Pietropaulo then informed them that was part of the upcoming meetings and they would be kept informed.

#### **Application Committee:**

The Application Committee then presented applications to the Board for approval on a Consent Agenda with several exceptions that were still waiting on several items. Debbie Rudd made a motion to accept which was seconded by Michael Marquess and carried by unanimous vote.

The Committee then presented to the Board the application 8026 from James K. Amoako and recommended the application for Certified Residential be denied based on review of three of the four files and included USPAP violations namely failure to recognize the Principle of Substitution which is a 1- 1a, 1-4a, and a 1-1b, cost approach was not credible which was a 1-4bii, sales adjustment or lack of adjustments were not discussed which would be 2-1a and 2-2b biii, and no declining market adjustment which is a 1-4a. For the South River Ridge Property there was inconsistent lot size adjustment and not discussion which is a 1-4a, cost not credible which is a 1-4biii, external obsolescence not utilized which is a 1-4biii, site value was not supported which is a 1-4bi, 2-2biii violation of no discussion of individual adjustments or reconciliation of the data. Moving on to the South Granada Drive property a 1-1b, missing rental data on rent comparables 1 and 3, 1-1b and 1-4a did not identify gross rent for any of the sales utilized or establish a GRM for those sales comparables, a 1-4a did not determine units of comparison for a value determination per unit, per room, per GBA and per bedroom, 1-2h scope of work, 1-1a and b did not utilize the income approach for an income property, 1-4biii cost numbers were not credible and a 1-4a no declining market adjustment was utilized. For those reasons the committee wanted to refer this to the full Board for denial of moving up to Certified Residential. The motion to deny Mr. Amoako's

application for certification was made by James Heaslet and seconded by Mike Trueba and was carried unanimously.

Debbie Rudd asked if anyone wanted to call him in to open up a complaint for any of these violations. Several members thought denying Certification was sufficient. Jeanne Galvin then asked if any of these violations were within the scope of a licensed appraiser and was answered affirmatively by several Board members. Michael Marquess stated that had an appraisal been turned in with these violations that the Board would take them seriously.

The first part was a motion to deny which was seconded and carried unanimously but Myra Jefferson was absent as noted. The second motion was made by James Heaslet to open complaints against the appraiser Amoaka all three appraisals. Mike Petrus saw the opening of a complaint as a double hit in addition to the denial. James Heaslet and Michael Marquess were concerned that the appraiser would simply accept the denial but continue to appraise in the same manner. Dan Pietropaulo then asked if rather than open the complaint would they rather review three more current appraisals to see if there has been improvement since the reviewed appraisals were from 2008. James Heaslet then withdrew his motion to open the complaints.

Michael Marquess then stated that had these appraisals been submitted they would have been treated as had the other files reviewed that day. Mike Petrus agreed but felt that since this was for a Certified Residential upgrade this would be still be a double hit. He wanted it to be clear that the motion to upgrade was denied and that if they asked for more reports to review it would clearly be in lieu of opening a complaint at this time.

At this point lengthy and involved discussion began and continued for some time including numerous parties at the table. Finally it was determined that for starters the logs should include a place for notation of whether or not an appraisal was considered "complex".

A motion was then made by Debbie Rudd and seconded by Mike Petrus for Mr Amoaka to submit his log for the last 60 days from which staff would choose three additional reports for the Board to review including a multifamily and from those reports the Board would decide whether or not to open a complaint on the appraisals previously submitted. Motion was carried unanimously. The reports were to go before the full Board.

#### **Education Committee Report:**

The next agenda item was the report by the Committee on appraisal testing and education and discussion and possible action by the Board regarding approval of the courses. Courses were placed on a Consent Agenda. It was asked if those who attended AARO conferences would be awarded continuing education credits however attendance at Investigator Training Levels I and II should be awarded CE credits. The Committee now recommends 17.5 hours be given for Level I and 15 hours be given for Level II. Debbie Rudd made the motion which was seconded by James Heaslet and was carried unanimously.

The rest of the agenda the Committee recommended approval of all credit hours except for Re-engineering The Appraisal Process from a Lender Perspective as they only

added up to 3 hours and therefore the Committee was recommending that approval. Michael Marquess moved to accept the recommendations of the Committee which was seconded by Mike Trueba and carried unanimously.

### **New Business:**

Discussion and possible action regarding creation of a Hardship Process. The discussion included past decisions by the Board. The discussion was centered around the Qualifying Education and the requirement for a limit on distance or on line education. Jeanne Galvin explained that the 75/25 requirement was in rule and would need to go through the rule process to be changed but that the rule could be changed to include the fact that the Board could have the authority to make exception. Then concern then was that it would create more ambiguity. Jeanne explained that it could be opened with the AMC rule. Dan Pietropaulo explained that the docket was already opened for the AMC rules. Kevin Yeanoplos suggested to not change the rule but to only amend it. Jeanne then stated that it would only involve opening a new docket.

It was finally determined that this would be considered in a future rule change including other items desired to be changed by the Board.

### **Appraisal Subcommittee Audit Report**

Discussion, consideration and possible action regarding the 2010 Audit just completed by the Appraisal Subcommittee.

Kristi Klamet, Policy Manager for the Appraisal Subcommittee then proceeded with her report.

Kristi started by thanking Dan Pietropaulo and Rebecca Loar and the rest of the staff, Jessica and Amanda for the help and contribution they provided during the 3 day audit.

This was the 7th ASC compliance review conducted on the Arizona Board. The last audit was in January of 2008. At that time there was one area of concern that was in the statute that related to the reinstatement of military personnel. It has since been amended.

This review included two clean up items to be included in the next rules change. One item that was seen was the reference on the website to the 2008-2009 USPAP. Dan has already fixed the link on the website linking to the correct 2010-2011 USPAP version. Evidently the Secretary of States Office has not yet published the change in hard copy as yet. Ms. Klamet was also comfortable with Jeanne Galvin's explanation and as a result was comfortable with the results.

Other areas reviewed are temporary practice permits and National Registry usage and all of that is going well and in compliance. Review also included the application process and loved the checklist we use. She asked if she could share this list with other states. Reciprocity is encouraged and Arizona is doing an outstanding job. Arizona currently has reciprocity with 38 states and Dan is working on several others at this time.

They looked at our education program which is fine. Next was the enforcement program and the only area insufficient is the area of 12 month file resolution. The last compliance

review was in January of 2008. This review constitutes nearly 3 years of operation without review. During that time there were 644 complaints opened in Arizona with 145 outstanding open complaints, not counting those completed during this Board meeting. 58 of those files were over 1 year old but that the 58 files only represent 32 appraisers. However, since ASC policy is 1 year this is something that will be included in the report. She stated that she will also be including much background information regarding the staffing issues that the Arizona Board has had to deal with in 2009 and 2010 since this has not been an area of concern in the past. She felt that much progress had been made since the new staffing appointments and that it was being caught up effectively. There will be a letter issued so the Board staff will have a chance to enact a plan or reduce the backlog prior to the report being issued to the Subcommittee.

She is trying to get Arizona back the January cycle so the next time they will be only looking at 14 months worth of material.

Mike Trueba asked if the ASC made recommendations regarding staffing in light of the backlog. She reported that there may be a program to issue grants in the future but that we were just starting at the bottom at this time. One concern was issuing a grant and having the Legislature sweeping the funds which may prohibit issuing of a grant. She felt that the backlog was more a result of lack of staffing for a long period of time and was not a reflecting of current staff procedure. She felt that the problem was being corrected. At the time of the next audit if it has gotten worse they may make some recommendations at that time.

Debbie Rudd expressed concern that the Dodd-Frank requirement for all lenders be mandated to submit complaints would cause some major staffing issues. Ms Klamet stated it was too soon to tell as those requirements were not finalized as yet.

Kristi Klamet ended her presentation by congratulating the Board on the efficiency by which the Board does operate at the office and at the Board Meetings.

Les Abrams then thanked her for her frank and comprehensive report.

#### **Discussion and possible action regarding future rules committee and other meetings**

After much discussion it was decided that the next rules committee meeting would be probably in January. It was decided that future meetings should be on Fridays, likely the third Fridays of the month.

Thursday, January 20th would be 1pm rules, 3pm app review and 3:30pm education. Friday, January 21st at 9 am would be the Board meeting. Rebecca did not have information at this time regarding room availability so final decisions would be made at the December meeting.

**Adjournment**

At that time Les Abrams announced the meeting was adjourned.

  
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Lester G. Abrams, Chairperson